

**REMARKS**

Presently, claims 1-3, 5-20 and 22-23 are pending in the specification. Claims 4, 21 and 24 have been canceled. Claims 1, 19 and 22 have been amended. Support for the amendments to independent claims 1, 19 and 22 may be found, for example, in paragraphs 74-78 and 81-82 of the specification. Accordingly, no new matter has been added by the foregoing amendments.

***Prior Art Rejection – 35 USC §103***

The Examiner has rejected claims 1-3, 5-20, 22 and 23 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No 5,661,516 to Carles (“Carles”) in view of U.S. Patent 5,652,615 to Bryant (“Bryant”). The Examiner contends that Carles teaches all aspects of the claims with the exception of determining an avail bandwidth and minimum bandwidth requirements, wherein the minimum bandwidth requirements represent required amount of bandwidth available within the program stream for the advertisement to be inserted, wherein the targeted advertisements are also selected by comparing the avail bandwidth to the minimum bandwidth requirements (Office Action, Page 3). The Examiner contends, however, that Bryant discloses using avail bandwidth and minimum bandwidth requirements for advertisement insertion. The Examiner concludes that it would have been obvious to one skilled in the art to modify Carles’ system with minimum bandwidth requirements as disclosed in Bryant. Applicants respectfully traverse this rejection.

Carles teaches a method of providing advertisements to individual subscribers by tagging commercials with routing information and converter addresses. Carles uses a database of “smart” commercials containing embedded information identifying the categories of recipients for the message. The commercials are inserted into the data stream based on a previously created schedule.

Bryant teaches architecture for transmitting programming to customers. In Bryant, “base” and “fill” segments are transmitted concurrently to the customer. The number of fill segments transmitted in one signal is selected based on the bandwidth of the signal. Thus, four 1.5Mb/s segments or two 3.0Mb/s segments may be concurrently transmitted on a 6Mb/s signal.

The combination of Carles and Bryant does not teach or suggest, “selecting targeted advertisements for insertion into the advertisement opportunity, wherein the targeted advertisements are selected by correlating the intended target market characteristics to the subscriber characteristics and *comparing the avail bandwidth to the minimum bandwidth requirements*,” as recited in independent claim 1. The Examiner argues that Bryant discloses this feature in discussing the number of segments that may be carried on a 6Mb/s signal (Office Action, Page 4). However, Bryant provides no discussion of how the fill segments (i.e., what comprises the fill segments) are selected, but only teaches that the number of segments must fit within the bandwidth capabilities of the signal. In contrast, the presently pending claims recite that an advertisement is selected by “correlating the **intended target market characteristics** to the subscriber characteristics and **comparing the avail bandwidth to the minimum bandwidth requirements**.” Advertisements are selected such that they both fit the bandwidth requirements and are properly targeted to the user. This incorporates balancing both the targeting requirements and the bandwidth requirements in selecting the advertisements to select an optimal group of ads. This is a significant distinction from the combination of Carles and Bryant because Bryant is only concerned with filling a stream and therefore only teaches selecting any set of advertisements that fills the stream (4 1.5MB ads in 6MB stream). Similarly, as admitted by the Examiner, Carles has no teaching of selecting advertisements based on the avail bandwidth. Therefore, the combination of Carles and Bryant also fails to teach this limitation.

Carles, Bryant or the proposed combination thereof also does not teach or suggest, “presenting a purchase offer for the advertisement opportunity to advertisers associated with the selected targeted advertisements, the purchase offer containing the correlation information; receiving one or more bids for the advertisement opportunity; and selecting

a winning bidder based at least in part on the bid,” as recited in independent claim 1. The subject matter of claim 1 allows advertisers to receive details about the advertisement opportunity and how well their advertisement would fit that opportunity, based on bandwidth limitations and user characteristics. Carles, Bryant or the proposed combination thereof does not teach or suggest “presenting a purchase offer for the advertisement opportunity to advertisers,” as recited in claim 1. Carles stores advertisements in the system and transmits the selected advertisements directly to the viewer. Bryant only teaches selecting advertisements such that they fit in the fill space. Therefore, since neither Carles nor Bryant or their combination teaches auctioning advertisement avails, nor transmitting a purchase offer for the advertisement opportunity to the advertiser, the proposed combination, even if proper, fails to teach each and every element of claim 1.

Applicants respectfully submit that independent claims 19 and 22 are patentable over the prior art at least in part based on reasons similar to those discussed above with respect to independent claim 1. Accordingly, independent claims 19 and 22 are believed to be allowable over the proposed combination of Carles and Bryant.

Accordingly, since the combination of Carles and Bryant is improper and does not teach or suggest all elements of the independent claims, Applicants respectfully submit that independent claims 1, 19 and 22 are allowable over the combination of Carles and Bryant. Dependent claims 2, 3, 5 – 18, 20 and 23 are allowable at least by their dependency on independent claims 1, 19 and 22, respectively.

***Conclusion***

In view of the foregoing remarks, Applicants respectfully submit that the Examiner's rejection has been overcome, and that the application, including claims 1-3, 5-20 and 22-23, is in condition for allowance. Reconsideration and withdrawal of the Examiner's rejection and an early Notice of Allowance are respectfully requested.

Respectfully submitted,

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